THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 9801 of 2007

Date:06-09-2007

Between:

Deyyala Surya Prakash Rao

.. PETITIONER

AND

The Mandal Revenue Officer, Kakinada and another

..

RESPONDENTS

ORDER:

The petitioner seeks a writ of mandamus to declare the action of the respondents in interfering with the possession and enjoyment of the land of the petitioner in an extent of 890.12 sq. metres (19 cents) in Sy.No.4/5 of Chediga village, Kakinada rural mandal, East Godavari District without initiating land acquisition proceedings, as illegal and arbitrary.

It is the case of the petitioner that the respondents are interfering with the peaceful possession and enjoyment of the land of the petitioner on the ground that the said land belongs to the government by erecting the board. It is stated that by virtue of registered general power of attorney executed by Deyyalapothu Raju and Deyyala Vijaya Bhaskara Rao, the petitioner has became the owner of the land in an extent of Ac.01-89 cents and thereafter he executed a registered agreement of sale in favour of Jonnada Subrahmanyam and received part of the consideration. But, in the first week of April, 2007, the respondents put up the board in the said land stating that the said land belongs to the Grampanchayat. Thus, it is the case of the petitioner that the respondents are illegally interfering with the peaceful possession and enjoyment of the said land.

On the other hand, a counter has been filed by the first respondent stating that the said land belongs to the Grampanchayat and in fact, a compound wall was constructed for latrine by the Grampanchayat during the year 1983 as per panchayat resolution No.40, dated 20.12.1982 at an estimated cost of Rs.5,000/- and the estimation was prepared by the engineering department and after

completion of the work, an amount of Rs.4,650/- was paid. As per the Gram Panchayat resolution No.120, dated 27.08.2003 for demolition of public latrines, the said site continues to be under control and safe custody of the Grampanchayat and thereafter, in its meeting held on 30.07.2005 passed resolution to erect notice boards at the panchayat sites and also at the government sites.

Admittedly, there is no title in favour of the petitioner over the said land and it cannot be transferred by way of general power of attorney and the transfer of property must be only by way of a registered document duly stamped. Therefore, I am of the opinion that the right, title and possession of the petitioner over the said land cannot be accepted.

Having regard to the facts and circumstances of the case, I am of the opinion that the disputes of questions of fact with regard to the right, title and possession of the property cannot be decided in the writ petition and the writ petitioner is not entitled for any relief and hence, the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

V.ESWARAIAH, J.

Date:06.09.2007.
ccm